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FM AMCONSUL LAGOS
TO RUEHC/SECSTATE WASHDC 9633
INFO RUEHZK/ECOWAS COLLECTIVE
RUEHUJA/AMEMBASSY ABUJA 9379
RUCPDOC/DEPT OF COMMERCE WASHDC
RHEFDIA/DIA WASHINGTON DC
RUEATRS/DEPT OF TREASURY WASHDC
RUEAIIA/CIA WASHINGTON DC
RUEAWJA/DEPT OF JUSTICE WASHDC

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STATE FOR AF/W, STATE FOR INR/AA
DEPARTMENT PASS TO USTR (AGAMA)
TREASURY FOR DPETERS
USDOC FOR 3317/ITA/OA/KBURRESS
USDOC FOR 3130/USFC/OIO/ANESA/DHARRIS
USDOC FOR USPTO - PAUL SALMON
USDOJ FOR MARIE-FLORE KOUAME

E.O. 12958: N/A

TAGS: [ETRD](#) [ECON](#) [KIPR](#) [PGOV](#) [NI](#)

SUBJECT: NIGERIA: LOWER NIGERIAN TARIFFS COULD REDUCE
COUNTERFEITING

¶1. SUMMARY: At a recent lunch meeting, representatives of Pfizer, Microsoft, Hewlett Packard (HP), and the International Federation of the Phonographic Industry (IFPI) discussed common obstacles their industries face in enforcing intellectual property rights (IPR) in Nigeria. While the lack of respect for intellectual property rights hampers all industries, each pushed for solutions specific to their industry. The common way forward depends on lowered import duties to make genuine products affordable, strengthened laws and support for Nigerian governmental and private industry efforts. End Summary.

High Import Duties Encourage Counterfeits

¶2. While Nigerian consumers are generally aware of the problems of counterfeit drugs, thanks in large part to the extensive public awareness campaigns undertaken by the National Agency for Food, Drug Administration and Control (NAFDAC), counterfeiting remains an enormous problem for Pfizer. NAFDAC estimates that counterfeit goods make up twenty percent of the market, while Pfizer estimates they are a full 80 percent of the market. Pfizer representatives at the meeting said they sometimes cannot distinguish a well-packaged counterfeit product from a legitimate product, and send samples both to their London lab for testing and to NAFDAC to be entered into NAFDAC's database.

¶3. Though Pfizer and NAFDAC work together, Pfizer sees the agency as understaffed and unable to perform all the work it needs to do. Most counterfeit pharmaceuticals are produced in India, although the company knows of Chinese counterfeit drugs as well. It is not known exactly how large shipments of drugs from these countries arrive in Nigeria, which points to the need for stronger border inspection and strengthened skills for customs officials, Pfizer representatives said. (Comment: It may also point to insider complicity and corruption. End Comment.) High import duties make imported drugs prohibitively expensive for many in the health care system. Pfizer has heard of hospitals purchasing counterfeit medications to keep costs down.

¶4. Nigeria's high import duties encourage counterfeiting of

all products because no importer can bring in authentic products and sell them at a reasonable cost, participants agreed. The representatives at the meeting had purchased counterfeit or pirated goods themselves and suffered the consequences: poor quality videos and software that damaged their computers and audiovisual equipment. These ancillary costs make the final price paid for the counterfeit drugs, movies or CDs equivalent to or higher than the cost of authentic products. IPR is a source of economic value to individuals, companies and governments alike, the participants stressed.

Copyright Commission Lacks Capacity, Funding

¶15. The representative of the International Federation of the Phonographic Industry (IFPI), who also represents the Business Software Alliance (BSA), decried the public perception of IPR violations of audio and visual recordings and software as insignificant and benign. Software customers cannot find genuine products to purchase. BSA estimates that more than 80 percent of software in Nigeria is pirated, well above the global rate estimated at 35 percent. For example, Microsoft recently held a meeting with cybercaf owners to disseminate free cybercaf management software that would reduce owners' costs, but at the same time ensure that the owners used other legitimate Microsoft products. Cheers arose when the software was offered free of charge, until Microsoft emphasized it only worked with registered and legitimate software packages. Then faces fell throughout the audience, the Microsoft representative said.

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¶16. IFPI says it supports the use of a NQerian Copyright Commission (NCC)-registered stamp, placed in production machinery to trace the origins of all discs, to combat disc piracy. Also, in May 2007, the Economic and Financial Crimes Commission (EFCC) took on prosecution of all IPR violations. IFPI and the BSA now rely primarily on the EFCC for prosecutions but are trying to build capacity in the NCC to handle these cases. According to the attendees, the NCC needs better funding, via increased fees for registration of copyrights, in order to grow its capacity. At the same time it needs to refocus its current spending by having fewer overseas trips for staff and by implementing more effective policies. Stamping out in-country production of counterfeit items should be NCC's first priority; a second priority should be improvement of the Customs Service's ability to interdict counterfeiters. The NCC must learn how the equipment for pirating software gets in, but more importantly to which countries pirated products are shipped regionally. In addition, the laws pertaining to piracy must be strengthened and enforced, the IFPI/BSA representative said. IFPI is finding allies who support its efforts in the Business Association of Nigeria.

¶17. Comment: Points raised by these industry representatives about how high import duties foster counterfeiting, about the need to improve funding for the NCC via registration fees, and about the need for improved performance by Nigeria's customs service, may be fruitful topics for discussion in upcoming Trade and Investment Framework Agreement talks. End Comment.

¶18. This cable has been coordinated with Embassy Abuja.

HUTCHINSON